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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,550	10/23/2001	Clifford Lardin		7661
7590	01/10/2005		EXAMINER	
Terence Sean Sullivan P.O. Box 425475 Cambridge, MA 02142				CHEA, PHILIP J
		ART UNIT	PAPER NUMBER	2153

DATE MAILED: 01/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/001,550	LARDIN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Philip J Chea	2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 23 October 2001.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-34 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-34 is/are rejected.  
 7) Claim(s) 25-33 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 23 October 2001 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
     Paper No(s)/Mail Date 10/23/01.
- 4) Interview Summary (PTO-413)  
     Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

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## DETAILED ACTION

Claims 1-34 have been examined.

### *Information Disclosure Statement*

1. The information disclosure statement (IDS) submitted on 10/23/01 was filed after the mailing date on 10/23/01. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### *Drawings*

2. The drawings are objected to because:

- Note Figs. 1-5, descriptive text labels should be used when rectangular boxes are shown.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Claim Objections*

3. Claims 25-33 are objected to because of the following informalities:

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As per claim 25,

- Note line 1, "The method of claim 1" is apparently "The method of claim 13".

As per claim 27,

- Note line f), the period at the end is apparently a colon or semicolon.

All other claims not mentioned specifically are objected to by virtue of being dependent on an objected claim.

Appropriate correction is required.

4. Claim 31 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 29. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-7,9,10,12-18,21,22,24,25,27,28,30,33 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Stewart (US 5,969,678).

As per claim 1, Stewart discloses a messaging system means, as claimed, comprising a plurality of messaging nodes (see column 2, lines 50-60, where messaging nodes are considered APs), a plurality of user accounts with distinct messaging address identifiers (see column 4, lines 1-9, where user accounts are considered the mobile unit IDs), and a plurality of portable messaging units including

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- storage means for firmware for controlling messaging operations (see column 5, lines 41-56, where firmware is considered the identification of the user so that the network may provide desired services by accessing appropriate providers);
- storage means for the storage of messages (see column 5, lines 32-40, where storage is implied because the message originates from the mobile unit);
- composition means for the composition of messages (see column 5, lines 32-40, where composition is considered entered in by the user);
- display means for the display of messages (see column 4, lines 6-9);
- associative means for associating at least one of said portable messaging units with at least one of said user accounts (see column 5 9-24); and
- communications means for conducting a data exchange with a messaging node, when in an immediate proximity of said messaging node (see column 5, lines 24-31);

whereby a plurality of said portable messaging units may conduct two-way messaging via said messaging system when in said immediate proximity to at least one messaging node of said messaging system, and conduct user interface functions irrespective of location (see column 5, lines 24-31).

As per claim 2, Stewart further discloses that the portable messaging units are each capable of conducting said data exchange at a plurality of said messaging nodes (see column 5, lines 24-40).

As per claim 3, Stewart further discloses that the messaging nodes include a plurality of docking ports each accepting messaging units (see column 4, lines 10-23).

As per claim 4, Stewart further discloses a central server gateway for all messaging traffic between said portable messaging units and the Internet (see Fig. 1 [15]).

As per claim 5, Stewart further discloses a central server with means for tracking and billing messaging traffic between said portable messaging units via said messaging nodes (see column 5, lines 9-23).

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As per claim 6, Stewart further discloses that said data exchange conducted between said portable messaging units and any network requires that said portable messaging units be physically transported to immediate proximity of at least one of said messaging nodes (see column 5, lines 24-40).

As per claim 7, Stewart further discloses that the transfer of data between a portable messaging unit within said messaging system and any other type of electronic device requires that said transfer of data be conducted via said data exchange with said messaging node (see column 4, lines 37-49).

As per claims 9,21 and 30, Stewart further discloses that the data exchange is conducted via supersonic communications means (see column 5, lines 24-31).

As per claims 10 and 22, Stewart further discloses that the data exchange is conducted via a temporary data cable (see column 1, lines 44-55).

As per claim 12, Stewart further discloses that the messaging nodes are geographically distributed in locations accessible to the public (see column 5, lines 24-40).

As per claim 13, Stewart discloses a method for the delivery of an incoming message in a messaging system, as claimed, comprising a plurality of messaging nodes (see column 2, lines 50-60, where messaging nodes are considered APs), a plurality of user accounts with distinct messaging address identifiers (see column 4, lines 1-9, where user accounts are considered the mobile unit IDs), and a plurality of portable messaging units with firmware for controlling messaging operations (see column 5, lines 24-31), said method comprising the steps of:

- transporting a portable messaging unit to the immediate proximity of a messaging node (see column 5, lines 24-31);
- identifying at least one user account, associated with said portable messaging unit, to said messaging node (see column 5, lines 9-23);
- delivering incoming messages for said user account from said messaging node to said portable messaging unit (see column 5, lines 24-31);
- storing said incoming message within said portable messaging unit (see column 4, lines 6-9);

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whereby incoming messages are delivered to said portable messaging unit with firmware for controlling messaging operations (see column 5, lines 24-31).

As per claim 14, Stewart further discloses verifying that said user account has sufficient credit to receive incoming messaging traffic before said incoming message is delivered to said portable messaging unit (see column 5, lines 9-23).

As per claim 15, Stewart further discloses that the messaging system further comprises a central server, and the verification of said sufficient credit is performed by said central server (see column 5, lines 9-23).

As per claim 16, Stewart further discloses messaging node proactively buffering incoming messages for said user account prior to the transport of said portable messaging unit to the immediate proximity of said messaging node (see column 7, lines 8-22, where buffering occurs within the information providers which is in communication with the access point).

As per claim 17, Stewart further discloses requesting incoming messages by said messaging node for said user account subsequent to the identification of said user account to said messaging node, for immediate delivery to said portable messaging unit (see column 7, lines 8-22).

As per claim 18, Stewart further discloses that said messaging system further comprises a central server, and further comprising the step of requesting incoming message for said user account by said messaging node from said central server (see column 7, lines 8-22).

As per claim 24, Stewart further discloses that said incoming message comprises a text message (see column 4, lines 7-9).

As per claim 25, Stewart further discloses incoming message is an automated response to an outgoing message previously sent from a user, where outgoing message was a request for advanced network functions (see column 5, lines 41-56).

As per claim 27, Stewart discloses a method for the delivery of an outgoing message in a messaging system, as claimed, comprising a plurality of messaging nodes, a plurality of user accounts

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with distinct messaging address identifiers, and a plurality of portable messaging units with firmware controlling messaging operations, said method comprising the steps of:

- composing said outgoing message on a portable messaging unit (see column 5, lines 32-38);
- storing said outgoing message within said portable messaging unit (see column 5, lines 32-38, where storage is inherent because the message originates from the portable messaging unit);
- transporting said portable messaging unit to the immediate proximity of a messaging node (see column 5, lines 32-40);
- delivering said outgoing message from said portable messaging unit to said messaging node (see column 5, lines 32-40);
- storing said outgoing message within said messaging node (see column 5, lines 32-40, where sending the message to the AP implies the AP stores it somewhere);
- relaying said outgoing message from said messaging node to a delivery address (see column 5, lines 32-40);

whereby outgoing messages are composed and sent from a portable messaging unit with firmware for controlling messaging operations (see column 5, lines 41-47).

As per claim 28, Stewart further discloses a central server verifying that said user account has sufficient credit to send outgoing messaging traffic before said outgoing message is relayed by said messaging node (see column 5, lines 9-23).

As per claim 33, Stewart further discloses that said outgoing message comprises a text message (see column 4, lines 7-9).

As per claim 34, Stewart discloses a method for the transfer of data between a portable messaging unit and a messaging node, where said messaging node

- detects the presence of a portable messaging unit in an immediate proximity (see column 5, lines 42-57);

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- automatically enters a data exchange with said portable messaging unit (see column 5, lines 42-57);
- identifies at least one user account associated with said portable messaging unit (see column 5, lines 42-57);
- triggers the delivery of outgoing messages from said portable messaging node (see column 6, lines 5-10);
- identifies incoming messages addressed to user accounts associated with said portable messaging unit (see column 5, lines 42-57);
- delivers said incoming messages to said portable messaging unit (see column 5, lines 42-57),

within a messaging system comprising a plurality of messaging nodes and a plurality of portable messaging units with firmware for controlling messaging operations (see column 5, lines 24-31).

#### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart as applied to claim 13 above, and further in view of Schuetze (US 5,968,117).

Although the system disclosed by Stewart discloses retrieving incoming messages from a mail server, prior to delivery of incoming messages to a portable messaging unit (see column 6, lines 40-51) it fails to disclose transferring mail server information, including a username and password for the mail server, from a portable messaging unit to a messaging node.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Stewart, as evidenced by Schuetze.

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In an analogous art, Schuetze discloses transferring mail server information, including a username and password for the mail server, from a portable messaging unit to a messaging node (see column (see column 5, lines 14-33, where portable messaging unit is considered the user-interface device).

Given the teaching of Schuetze, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Stewart by transferring username and password to a mail server from a portable messaging unit, such as disclosed by Schuetze, in order to verify the user when accessing their email from a remote location.

9. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart as applied to claim 25 above, and further in view of Pashley et al. (US 5,978,833).

Although the system disclosed by Stewart shows substantial features of the claimed invention (discussed above), it fails to disclose that the advanced network functions comprise network webpage retrieval.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Stewart, as evidenced by Pashley et al.

In an analogous art, Pashley et al. disclose advanced network functions comprise network webpage retrieval (see column 2, lines 25-40).

Given the teaching of Pashley et al., a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Stewart by employing webpage retrieval functions, such as disclosed by Pashley et al., in order to view internet pages while on the go (see Pashley column 2, lines 41-48).

10. Claims 8,11,20,23,29,31, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart as applied to claims 1,13, and 27 above, and further in view of Extended Systems ("IrDA versus Bluetooth: A Complementary Comparison").

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11. As per claims 8,20,29, and 31, although the system disclosed by Stewart shows substantial features of the claimed invention (discussed above), it fails to disclose photonic communications means.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Stewart, as evidenced by Extended Systems.

In an analogous art, Extended Systems discloses that it would have been obvious to use photonic communications means (see page 1, "What is IrDA?").

Given the teaching of Extended Systems, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Stewart by employing photonic communications means, such as disclosed by Extended Systems, in order to point and shoot to gather information in a close proximity range without interference (see Extended Systems page 3, paragraph 3 under Data Exchange).

As per claims 11,23,32, although the system disclosed by Stewart shows substantial features of the claimed invention (discussed above), it fails to disclose low power radio transceiver equipment, with communications range under 100 meters.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Stewart, as evidenced by Extended Systems.

In an analogous art, Extended Systems discloses that it would have been obvious to use a communications means that is capable of a range under 100 meters (see page 2, "What is Bluetooth?").

Given the teaching of Extended Systems, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Stewart by employing a communications means capable of a range under 100 meters, such as disclosed by Extended Systems, in order to transmit data when the device is brought within a range instead of taking the device out and pointing it at something (see Extended Systems page 4, paragraph 2).

### ***Conclusion***

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Lazaridis, Mihal et al. US 20010005857 A1

Morris; Michael D. et al. US 5349678 A

Shaughnessy; Mark L. et al. US 5928325 A

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip J Chea whose telephone number is 571-272-3951. The examiner can normally be reached on M-F 7:00-4:30 (1st Friday Off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Philip J Chea  
Examiner  
Art Unit 2153

PJC 12/28/04



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